



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 11-1016

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## MEDIA BUREAU ANNOUNCES PERMIT-BUT-DISCLOSE *EX PARTE* STATUS FOR DIGITAL BROADCASTING OVS OPEN VIDEO SYSTEM CERTIFICATION APPLICATION PROCEEDING

On May 26, 2011, Digital Broadcasting OVS (“Digital Broadcasting”) filed an application for certification to operate an open video system with a projected service area encompassing the Top 50 DMAs in the United States pursuant to Section 653(a)(1) of the Communications Act of 1934, as amended, and the Commission’s rules.<sup>1</sup> Several parties filed comments including the National Cable & Telecommunication Association (“NCTA”), the National Association of Broadcasters (“NAB”), the City of Boston, and the National Association of Telecommunications Officers and Advisors (“NATOA”).<sup>2</sup> By *Memorandum Opinion and Order* dated June 3, 2011, the Media Bureau denied Digital Broadcasting’s certification application.<sup>3</sup>

Although the present proceeding is “restricted” under the *ex parte* rules,<sup>4</sup> the Commission, or Bureau staff pursuant to delegated authority, may adopt modified *ex parte* procedures in particular proceedings “where the public interest so requires.”<sup>5</sup> We find that designating this proceeding as permit-but-disclose will serve the public interest by allowing for broader participation and ensuring that the Commission benefits from a comprehensive record.<sup>6</sup> Accordingly, by this Public Notice, and pursuant to Section 1.1200(a) of the Commission’s rules, we announce that the *ex parte* procedures applicable to permit-but-disclose proceedings will govern any further consideration of Digital Broadcasting’s certification application.<sup>7</sup>

<sup>1</sup> 47 U.S.C. § 573(a)(1); 47 C.F.R. § 76.1502.

<sup>2</sup> The City of Boston and NATOA’s filings were considered informal comments to the Commission as the submissions were not filed within five calendar days of the Commission’s receipt of Digital Broadcasting’s certification application. See 47 C.F.R. § 76.1502(e)(1).

<sup>3</sup> See, *Digital Broadcasting OVS*, Memorandum Opinion and Order, DA 11-996 (rel. MB June 3, 2011).

<sup>4</sup> See 47 C.F.R. § 1.1208.

<sup>5</sup> 47 C.F.R. § 1.1200(a).

<sup>6</sup> Absent our action here, the proceeding would remain restricted until the proceeding is no longer subject to administrative reconsideration or review or judicial review. See 47 C.F.R. §§ 1.1208, 1.206(f), and 1.115(d).

<sup>7</sup> See 47 C.F.R. §§ 1.1200(a) & 1.1206.

Permit-but-disclose *ex parte* procedures permit interested parties to make written and oral *ex parte* presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding as provided in 47 C.F.R. §1.1206(b). An original and one copy of all filings must be submitted with the Commission's Secretary. All filings should be clearly captioned as *ex parte* presentations and must reference Digital Broadcasting OVS. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail must be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Copies of Digital Broadcasting's Open Video System Application and any subsequently filed documents in this matter are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> St., S.W., Room CY-A257, Washington, DC 20554, telephone (202) 418-0270. They may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., telephone (202) 488-5300, facsimile (202) 488-5563, or via email at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

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For further information, contact Sonia Greenaway-Mickle or Steve Garner, (202) 418-7200. Press inquiries should be directed to Janice Wise, (202) 418-8165.

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